

REMARKS

In view of the foregoing amendments and the following representations, reconsideration and allowance of the above-identified application is respectfully requested.

Claims 1-4, 15-26 and 23-26 are in the present application.

The Applicants gratefully acknowledge the withdrawal of the obviousness-type double patenting rejection over co-pending application No. 10/664,803, the withdrawal of the rejection under 35 U.S.C. § 112, first paragraph and the withdrawal of the rejection under 35 U.S.C. § 103 over Vergez et al., United States Published Patent Application No. 2006/0204578.

On page 3 of the Office Action, the Examiner rejected claims 1 and 15 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges that the claims contain subject matter not described in such a way as to reasonably convey to one skilled in the art that the inventors(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner contends that the phrase "each individual thiazolinedione related compound" is too broad.

Applicants do not believe this rejection is correct. The entire phrase, when taken in context of the claims and the specification, refers to the impurities and degradation compounds of pioglitazone or its pharmaceutically acceptable salts. Applicants respectfully submit that this meaning would be understood by an individual of ordinary skill in the art. However, in an effort to expedite prosecution of the application,

Applicants have amended independent claim 1 to specifically recite that the "thiazolinedione related compounds and impurities" are the five compounds identified on page 26, lines 15-31 of the specification as filed. Claim 1 has also been amended to correct two typographical errors that were discovered during preparation of this response. No new matter is added by this amendment.

In the Office Action on pages 2-3 the Examiner maintained the provisional non-statutory obviousness-type double patenting rejection in view of claims 1-38 of co-pending United States Patent Application No. 11/094,493.

Based upon the present amendments, it is believed that this provisional double patenting rejection is the only rejection remaining in the present application. Because the present application was filed before United States Patent Application 11/094,493 and 11/094,493 is currently rejected under 35 U.S.C. §§ 103 and 112, first paragraph, it is respectfully submitted that the provisional double patenting rejection of the present application be withdrawn and a notice of allowance issued. The withdrawal of the provisional double patenting rejection is appropriate according to MPEP § 804(I)(B)(1) which reads in relevant part as follows:

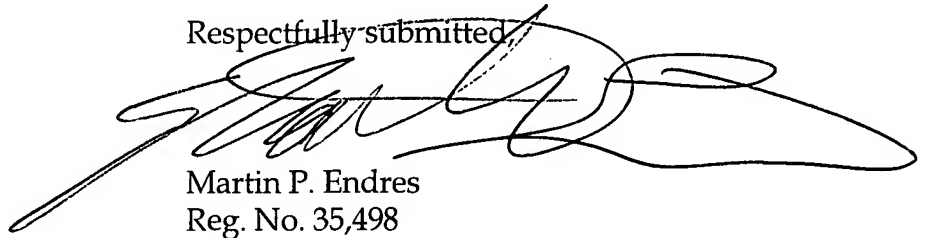
If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier filed application to issue as a patent without a terminal disclaimer.

Based upon the foregoing amendments and representations, Applicants respectfully submit that the rejection of the claims in the above-identified application have

been overcome and should be withdrawn. Early and favorable action is earnestly solicited.

It is believed that no fee is required for submission of this response because it is being mailed before the three month deadline, February 29, 2008. If a fee is due, the Commissioner is authorized to charge our deposit account, Account No. 08-1540.

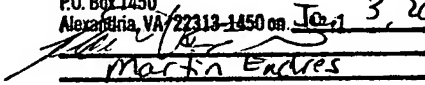
Respectfully submitted,



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